



City of Long Beach
Working Together to Serve

2002 - 2003
ANNUAL REPORT

ROBERT E. SHANNON
City Attorney



The duties of the City Attorney's office are set forth in the City's Charter, which provides that the City Attorney shall be the sole and exclusive legal advisor of the City, City Council and all City commissions, committees, officers and employees. It is charged with municipal legal responsibilities as complex as any in the state.

It furnishes the legal support for a full service municipal corporation, including departments of Police, Fire, Public Works, Planning and Building, Community Development, Library and Refuse.

In addition, on a daily basis, the office provides legal advice and assistance to all of the City's major enterprise activities (many of which are not normally undertaken by municipalities). They include the following departments:

Port of Long Beach - One of the nation's busiest container ports.

Oil Properties - The nation's only municipal crude oil production company.

Airport - The twelfth busiest airport in the nation.

Gas - One of only three municipal natural gas utilities in California.

SERRF - The only successful large operating municipal trash-to-energy plant in California. It generates enough energy to fill the needs of 100,000 people per day.

Water - Provides complete water and sewer service.

Tidelands - Includes a major convention and entertainment complex and the largest small boat marina in the United States as well as 5-1/2 miles of beaches and lifeguard services.

Public Health - One of only three municipal public health departments in California.

Towing/Storage/Impound - One of the few municipal towing and storage operations in the state.



Administration Division

Oversees the management of the office consisting of 70 employees, including 22 attorneys.

Litigation Division

The Litigation Division handles all litigation on behalf of the City before judicial and administrative bodies including actions involving personal injury and property damage, civil rights violations, excessive force, constitutional issues, personnel disputes, dangerous conditions of public property, breach of contract and real estate issues.

Departmental Counsel Division

The General Law Division provides legal advice to City boards and commissions, including the City Council, Planning Commission, Civil Service Commission, Redevelopment Agency, Housing Authority, Board of Water Commissioners, Board of Examiners, Appeals and Condemnation, the Citizens' Police Complaint Commission and the Long Beach Housing Development Company. The Division also drafts contracts, resolutions, ordinances, opinions and other regulations for all City departments. In addition, the Division is responsible for providing legal services in connection with the City's Code enforcement and nuisance abatement activities.

Harbor Division

The Harbor Division provides legal advice and opinions, drafts contracts, resolutions, ordinances and other regulations for the Board of Harbor Commissioners and the Harbor Department.

Workers' Compensation Division

The Workers' Compensation Division handles all workers' compensation litigation and workers' compensation administration for the City.

LITIGATION DIVISION

July 1, 2002 through June 30, 2003
(6 Attorneys)

STATISTICS

TOTAL PRESENT ACTIVE LITIGATION CASES	339
TOTAL NUMBER OF GOVERNMENTAL TORT CLAIMS	997
TOTAL NUMBER OF TRIALS COMPLETED BY CITY ATTORNEY	14
Jury Trials where Verdict was Reached	12
Verdicts in Favor of the City of Long Beach	11
Court Trials where Verdict was Reached	2
Judgments in favor of the City of Long Beach	2
TOTAL NUMBER OF CASES RESOLVED IN FAVOR OF THE CITY OF LONG BEACH BY PRE-TRIAL MOTIONS	18
APPELLATE DECISIONS CONCERNING THE CITY OF LONG BEACH	2
Appellate Decisions Decided in Favor of the City of Long Beach	0
TOTAL NUMBER OF PITCHESS MOTIONS	160
TOTAL NUMBER OF SUBPOENAS	587
TOTAL NUMBER OF PUBLIC RECORDS REQUESTS	544

CLAIM & LAWSUIT PAYMENTS

Historical

Payments made by the City of Long Beach on Claims and Lawsuits
from July 1, 2002 to June 30, 2003 \$1,557,018.00

Payments made by the City of Long Beach on Claims and Lawsuits
from July 1, 2001 to June 30, 2002 \$1,946,710.10

Payments made by the City of Long Beach on Claims and Lawsuits
from July 1, 2000 to June 30, 2001 \$1,142,130.50

MONEY RECOVERED

Recovered from breach of promissory notes, property damage,
workers' compensation benefits \$190,703.87

HIGHLIGHTS

JURY VERDICTS

Seventy seven (77%) of verdicts in jury trials in the past five years
resulted in defense verdicts in favor of the City of Long Beach

(July 1, 2002 – June 30, 2003 - 11 of 13 jury trials
resulted in defense verdicts in favor of the City of Long
Beach)

(July 1, 2001 – June 30, 2002 - 5 of 9 jury trials resulted in defense verdicts in favor of the City of Long Beach)

(July 1, 2000 - June 30, 2001 – 3 of 4 jury trials resulted in defense verdicts in favor of the City of Long Beach)

(July 1, 1999 - June 30, 2000 - 5 of 6 jury trials resulted in defense verdicts in favor of the City of Long Beach)

(July 1, 1998 - June 30, 1999 - 10 of 12 jury trials resulted in defense verdicts in favor of the City of Long Beach)

SIGNIFICANT CASES

TRIALS AND ARBITRATIONS

Wells v. City of Long Beach - Defense verdict. Plaintiff alleged dangerous condition of public property.

Moorer v. City of Long Beach - Defense verdict. Plaintiff alleged violation of civil rights, battery, false arrest, and emotional distress.

Jordan v. City of Long Beach - Defense verdict. Plaintiff's estate alleged violation of civil rights.

Morris v. City of Long Beach - Defense verdict. Plaintiff alleged violation of civil rights resulting in his wrongful incarceration for several years.

Lopez v. City of Long Beach - Defense verdict. Plaintiffs alleged violation of civil rights, battery, false imprisonment and emotional distress.

Bixby (BHCA) v. City of Long Beach - Defense verdict. Plaintiffs alleged violation of a grant deed towards construction on the Rancho.

Vasquez v. City of Long Beach - Defense verdict. Plaintiff alleged violation of civil rights, and battery.

F&M Bank v. City of Long Beach - Defense verdict. Plaintiff alleged breach of contract for failure of the City to provide free parking.

Gonzales, R. v. City of Long Beach - Defense verdict. Plaintiff alleged dangerous condition of public property.

Johnson v. City of Long Beach - Defense verdict. Plaintiff alleged battery, false arrest, and emotional distress.

Long v. City of Long Beach - Defense verdict/Non-suit. Plaintiff alleged false arrest, and malicious prosecution.

Montoya v. City of Long Beach - Defense verdict. Plaintiff alleged dangerous condition of public property.

Ray v. City of Long Beach - Defense verdict. Plaintiff alleged dangerous condition of public property.

CASES RESOLVED PRIOR TO TRIAL OR ARBITRATION

AMC v. City of Long Beach - Motion to Dismiss granted in favor of City. Case involved dispute over sublease.

Boulware v. City of Long Beach - Motion to Dismiss granted in favor of City. Plaintiff alleged assault and battery while at jail.

Brumat v. City of Long Beach - Case settled for waiver of costs. Plaintiff, bound in a wheelchair, alleged a dangerous condition of public property.

Flemings v. City of Long Beach - Motion for summary judgment granted in favor of City. Plaintiff alleged violation of civil rights.

Gonzales, C. v. City of Long Beach - Case settled for waiver of costs. Plaintiff alleged a dangerous condition of public property.

Goode v. City of Long Beach - Case settled for waiver of costs. Plaintiff alleged violation of civil rights.

Kidane v. City of Long Beach - Case settled for waiver of costs. Plaintiff alleged dangerous condition when he was struck by a car while on a bicycle.

Clark/Hashaway v. City of Long Beach - Case dismissed as to City. Plaintiff charged with rape and sentenced to prison. He claimed that he did not receive fair trial and suffered damages.

Prosser v. City of Long Beach - Dismissal for waiver of costs. Plaintiff alleged dangerous condition at Queen Mary.

Zoltan v. City of Long Beach - Court dismissed action for lack of prosecution. Plaintiff alleged police sold his confiscated property.

Desai v. City of Long Beach - Case dismissed by court. Plaintiff is owner of Lovitt Hotel, and alleged violation of civil rights. Plaintiff now seeking reinstatement of case.

Vesta v. City of Long Beach - Dismissed by court after demurrer sustained without leave. Property damage claim.

Brady v. City of Long Beach - Dismissed by court after demurrer sustained without leave. Plaintiff alleged dangerous condition of public property.

Tew v. City of Long Beach – Plaintiff dismissed action with a waiver of costs . Plaintiff alleged a dangerous condition of public property.

Swain v. City of Long Beach - Plaintiff dismissed action with a waiver of costs . Plaintiff alleged a dangerous condition of public property.

Toy v. City of Long Beach - Case dismissed after City's demurrer was sustained. Plaintiff alleged civil rights violations.

Camacho v. City of Long Beach - Motion to dismiss granted. Plaintiff alleged civil rights violations.

Aikman v. City of Long Beach - After extensive discovery, case dismissed by plaintiff with a waiver of costs. Plaintiff alleged civil rights violations.

Hunter v. City of Long Beach - Case dismissed for waiver of costs. Plaintiff alleged excessive force and false arrest.

Norm Ryan I and II - Authored appellate court brief that determined "Vice-Mayor" is one word.

City of Long Beach v. Sigma Pi Fraternity - Obtained preliminary injunction against Fraternity, and its members.

ACTIONS TO RECOVER MONEY FOR THE CITY

City of Long Beach v. American Waste - Complaint filed for unpaid disposal fees in the amount of \$22,000.00. City recovered \$10,000.00 before filing complaint. City then settled balance owed in the amount of \$10,478.34.

City of Long Beach v. Sharp Image Wildfires, Inc., dba Long Beach Breakers - City filed complaint for installation of wooden lockers at Blair Field. Obtained default judgment in the amount of \$10,773.50.

City of Long Beach v. Boeing Corp. - Recovered \$24,781.02 from Boeing for unpaid utility taxes.

City of Long Beach v. Wannamacher - Recovered \$7,500 for subrogation of worker's comp expenses.

City of Long Beach v. Bun Than Touch - Complaint filed for worker's comp expenses, including property damage. Parties entered into stipulated judgment in the amount of \$7,133.44.

City of Long Beach v. Carlos Herrera - City filed complaint to recover money for defaulted loan. Parties entered into a stipulated judgment in the amount of \$20,948.60.

City of Long Beach v. Katrina Dorsey & Emma Dorsey - Complaint filed for worker's compensation subrogation in the amount of \$8,989.06. Parties entered into a stipulated judgment in the amount of \$5,000 to be paid in monthly installments.

City of Long Beach v. Premier Builders - Recovery of unpaid combination building permit in the amount of \$6,207.35.

City of Long Beach v. Global Entertainment - Recovery of unpaid police services for event in the amount of \$5,711.00.

City of Long Beach v. Jonathan Milks - Settlement for subrogation of worker's comp benefits in favor of the City in the amount of \$2,574.00.

City of Long Beach v. Mary & Ed Barkauskas - Settlement for subrogation of worker's comp benefits and property damage in favor of the City in the amount of \$15,894.58.

City of Long Beach v. Padilla - Restitution received for workers' comp benefits in the amount of \$339.53.

City of Long Beach v. Diehl - Settlement for subrogation of worker's comp benefits in favor of the City in the amount of \$552.95.

City of Long Beach v. Frank Leon, Jr. - Settlement for subrogation of worker's comp benefits in favor of the City in the amount of \$828.60.

City of Long Beach v. Francisco Javier - Small claims judgment in the amount of \$1,587.61.

City of Long Beach v. Fragua - Settlement for subrogation of worker's comp benefits in favor of City in the amount of \$861.83.

City of Long Beach v. Afewerki - Settlement for subrogation of worker's comp benefits and property damage in favor of the City in the amount of \$8,338.07.

City of Long Beach v. Sarah Stenzel - Settlement for subrogation of worker's comp benefits in favor of the City in the amount of \$1,218.33.

City of Long Beach v. Tanisha Tolliver - Settlement for subrogation of worker's comp benefits in favor of the City in the amount of \$320.00.

City of Long Beach v. Vyas - Settlement for subrogation of worker's comp benefits and property damage in favor of the City in the amount of \$5,858.94.

City of Long Beach v. Washburn - Settlement for subrogation of worker's comp benefits in favor of the City in the amount of \$1,215.88.

City of Long Beach v. Dale Ammon - Settlement of subrogation of worker's comp benefits in favor of the City in the amount of \$415.00.

City of Long Beach v. Angel Sumeta - Settlement for subrogation of worker's comp benefits in favor of the City in the amount of \$7,164.49.

City of Long Beach v. Antonio Benevents - Settlement for subrogation of worker's comp benefits in favor of the City in the amount of \$14,500.00.

City of Long Beach v. Arbo - Settlement for subrogation of worker's comp benefits in favor of the City in the amount of \$418.77.

City of Long Beach v. Alvarez - Settlement for subrogation of worker's comp benefits in favor of the City in the amount of \$1,292.40.

City of Long Beach v. Rush - Settlement for subrogation of work comp benefits in favor of the City in the amount of \$841.77.

City of Long Beach v. Frank Leon, Jr. - Settlement for subrogation of work comp benefits in favor of the City in the amount of \$828.60.

City of Long Beach v. Ashney King - Settlement for subrogation of work comp benefits in favor of the City in the amount of \$1,500.00.

City of Long Beach v. Prodigalidad - Settlement for subrogation of work comp benefits in favor of the City in the amount of \$4,000.00.

City of Long Beach v. Maryann Rillera - Settlement for subrogation of worker's comp benefits in favor of the City in the amount of \$4,750.00.

City of Long Beach v. Celia Silva - Settlement for subrogation of worker's comp benefits in favor of the City in the amount of \$4,000.00

City of Long Beach v. S. Armstrong - Settlement for subrogation of worker's comp benefits in favor of the City in the amount of \$1,000.00

City of Long Beach v. James Lees - Recovered \$10,000.00 from defendant for unpaid utility accounts.

City of Long Beach v. Orihuela - Settlement for subrogation of worker's comp benefits in favor of the City in the amount of \$10,649.11.

City of Long Beach v. Christensen - Recovered \$5,500.00 for property damage to Port property.

City of Long Beach v. Robison - Payment received for subrogation for worker's comp benefits in favor of the City in the amount of \$1,021.10

City of Long Beach v. Kang - Payment received for subrogation of worker's comp benefits in favor of the City in the amount of \$948.47

City of Long Beach v. Vargas - Small claims judgment in the amount of \$1,587.61.

DEPARTMENTAL COUNSEL DIVISION

July 1, 2002 - June 30, 2003
(9 Attorneys)

STATISTICS

TOTAL ASSIGNMENTS	2,945
Ordinances Prepared	64
Resolutions Prepared	178
Contracts Prepared	854
Leases Prepared	69
Legal Opinions	123
Memorandums of Understanding Prepared	21
Permits Prepared	108
Bids Reviewed	30
Deeds Prepared or Reviewed	28
Plans & Specifications Reviewed	101
Declaration & Indemnity Agreements	188
Insurance Reviews & Approval	817
Code Enforcement Activities	125
Bankruptcy Claims Filed by City	22
Bankruptcy Cases	217

MONEY RECOVERED

Bankruptcy Collection	\$105,677.42
Assessment District Collection	\$712,345.73
TOTAL RECOVERED	\$818,023.15

SIGNIFICANT ACHIEVEMENTS

Nuisance Abatement Program - Participated in several office meetings with property owners, in coordination with the City Manager's Nuisance Abatement Officer, to resolve documented reports and complaints of nuisance activity occurring at either residential or business properties. Attended several neighborhood and community meetings regarding the abatement of nuisance-related activity. Worked with CSULB representatives and the Greek fraternity advisors and chapter presidents to address neighborhood concerns about fraternity and sorority activity within Long Beach.

Motel Nuisance Abatement - Participated in office meetings with approximately 25 motel owners, in coordination with the City Manager's Nuisance Abatement Officer and LBPD Community Policing officers regarding the lawful operation of motel businesses. All motels have had documented complaints and arrests for illegal drug and/or prostitution activity.

Drug Evictions - Initiated several unlawful detainer actions under California Health & Safety Code section 11571.1, which authorizes the City Attorney to evict or compel property owners to evict those tenants observed by police officers to be engaged in illegal drug activity.

Board of Examiners, Appeals, and Condemnation (BEAC) - Advised the Board relating to the abatement of substandard building conditions and property maintenance. Conducted hearings on all appeals from BEAC.

Strike Force - Coordinated with City staff to provide legal support to abate public nuisances at problem addresses throughout the City.

5304 Ebell - Conducted an administrative hearing which resulted in the confirmation of the City Manager's determination that a public nuisance existed at the residence due to loud noise and criminal activity. Conducted a second hearing that imposed penalties amounting to \$3,000 against the property owner for violating the nuisance abatement order.

5341 Appian Way - Conducted an administrative hearing which resulted in the confirmation of the City Manager's determination that a public nuisance existed at the residence due to loud noise and criminal activity. Conducted a second hearing that imposed penalties amounting to \$8,700 against the property owner for violating the nuisance abatement order.

3090 Hackett - Conducted an administrative hearing which resulted in the confirmation of the City Manager's determination that a public nuisance existed at the residence due to loud noise and parties. No further violations have occurred, therefore no penalties have been imposed.

3381 Andy Street - Conducted an administrative hearing which resulted in the confirmation of the City Manager's determination that a public nuisance existed at the apartment building due to criminal activity and building code violations. No further violations have occurred, therefore no penalties have been imposed.

College Inn Motel - 1521 E. PCH - Conducted an administrative hearing which resulted in the confirmation of the City Manager's determination that a public nuisance existed at the motel due to prostitution and related criminal activity. No further violations have occurred, therefore no penalties have been imposed.

Coronado Motel - 1037 E. PCH - Conducted an administrative hearing which resulted in the confirmation of the City Manager's determination that a public nuisance existed at the motel due to both drug and prostitution activity. No further violations have occurred, therefore no penalties have been imposed.

Sigma Pi - Obtained a preliminary injunction against a college fraternity house prohibiting related nuisance activities.

Java Lanes - Conducted an administrative hearing regarding an entertainment permit, which resulted in the recommendation to City Council for denial of said permit.

Estrada v. City of Long Beach - Motion for Summary Judgment granted in favor of City in alleged employment discrimination case.

Civil Service Commission Hearings - Advised Civil Service Commission on a weekly basis during disciplinary hearings.

457 Plans - Represented City and Plan Administrator in dissolution actions involving deferred compensation issues.

Oppose Writs of Administrative Mandamus - Successfully opposed writs taken against the City and Civil Service Commission relating to employee disciplinary matters.

HIPAA Compliance - Prepared Notice of Privacy Practices, Authorizations and Business Associate Agreements required under federal law for use by City Health Department.

Firefighter Recruit Contracts for Reimbursement - Prepared contracts for firefighter recruits and lateral transfers requiring reimbursement to City for training costs if employee leaves fire department and is employed by another fire agency.

Temporary Restraining Order - Obtained TRO for City employee who was threatened in the workplace.

Resolution Providing Benefits to Employees Called to Military Duty - Prepared resolution providing benefits to employees called to active military duty in war against terrorism.

Conversion of Community Development Consultants to City Employees - Worked with Community Development, Civil Service, and Human Resources in transitioning special status consultants into City employ.

Blackstone Community Foundation, Inc. - Negotiated the settlement on the rehabilitation loan made to this non-profit foundation, resulting in a \$1.8 million recovery on a loan that the borrower had not made a payment on since loan closing.

Charter Communications - Assisted the Auditor's Office in the 2002/03 audit of franchise fees, including advice and consultation on meaning/interpretation of various provisions of the Cable Act and the City's franchise agreement with Charter, resulting in a determination that Charter had underpaid franchise fees in the amount of approximately \$180,000.

JetBlue Airways - Negotiated a Lease and Lease-Back Agreement between the City and JetBlue Airways, to facilitate the construction and development of \$1.772 million in improvements to the Long Beach Municipal Airport including additional hold room, security check point and temporary baggage claim conveyor utilizing funds advanced by JetBlue.

Marriott - Negotiated extension of the lease for Marriott at the Long Beach Airport resulting in an increase of approximately \$87,000 per year in rent to the City for

each year during the balance of the pre-extension term in addition to a projected increase of \$428,472 per year in Transient Occupancy Tax once the Marriott completes construction of 100 additional rooms.

Navy Reuse - Coordinated the efforts of outside counsel in connection with the defense of the \$4 million claim filed by Earth Tech against the City. Claim was based on alleged breaches by the City of the terms and conditions of the Asset Management and Disposition Agreement prepared in connection with the management and disposition of surplus personal property at the Naval Station and Shipyard. Earth Tech recently agreed to drop the claim without any payment from the City.

Section 8 - Prepared program documents for The Long Beach Housing Development Company in connection with the development of a homeownership program for Sec 8 individuals/renters, using their Sec 8 vouchers and other program funds to finance downpayment/purchase.

Utility User Tax - Assisted the Auditor's Office by preparing and enforcing subpoena of business records that AT&T Wireless, Cingular Wireless, Cox/Sprint Wireless, Nextel Communications and Verizon Wireless, each of whom had failed and refused to provide records to permit an audit/determination of compliance with Utility User Tax requirements, resulting in recovery of underpayment of approximately \$80,000 from Nextel and a Settlement Agreement (as a result of a review of records provided it was determined that each had made required payments) with AT&T, Cingular, Cox/Sprint and Verizon to maintain required records, make required payments on a going forward basis, and provide records as requested without the need for a subpoena.

429 Almond - Prepared documentation for this demonstration project of The Long Beach Housing Development Company, at a cost of approximately \$1,055,000, involving the conversion of a fourplex consisting of 4, 2-bedroom, 1 bath units to 2, 3-bedroom, 2-bath units to address the City's tremendous need for affordable housing for larger households.

Prop. 218 Storm Drain Funding - Issued opinion regarding transfer of storm drain system from the City to the jurisdiction of LBWD and the impacts of Prop. 218 on funding improvements to the storm drain system.

Local Preference Program - Drafted Charter amendment giving the City Council the ability and flexibility to establish a local preference program by ordinance.

Equipment Leases - Reviewed and approved several equipment leases for temporary modular units while construction of permanent City facilities was ongoing.

Issuance of Commercial Paper - Participated in the first issuance of commercial paper as a financing vehicle for the Long Beach Water Dept. which made it easier to finance improvements to the City's water system.

New Recycling Contract - Advised Refuse Division to pursue a cooperative (piggyback) contract for recycling and prepared the necessary documents including resolution and contract thereby saving time and money for the City.

Municipal Code Amendments to exempt City from Public Contract Code - Drafted new chapter in Municipal Code that exempted the City from the application of the several burdensome sections of the Public Contract Code.

Desalination Patent and Research - Assisted LBWD in obtaining a patent on a new desalination process; drafted cooperative agreement between LBWD and LA Department of Water and Power relating to research and development of desalination of sea water.

Grant Programs - Prepared twenty resolutions enabling the City to apply for grant monies from the State for a variety of park-related improvements.

Kilroy Airport Park - Negotiated Amended and Restated Lease WDL-96 with Kilroy Realty, LP relating to former site of California National Guard; and negotiated and drafted Lease for parking adjacent to Kilroy Office Park to allow further development.

Master Agreement with Xerox - Prepared Master Agreement with Xerox covering products, equipment, maintenance and financing which enabled City to purchase, lease and maintain equipment with less documentation.

Job Order Contracting - Assisted Public Works in the implementation of a new contracting procedure known as Job Order Contracting which reduces the time for construction.

Skylinks Renovation - Prepared documents (construction contract, lease amendment, contract for construction manager) for the renovation and reconstruction of Skylinks golf course and reviewed bond documents for the revenue bond issuance.

Free Space on Broadcast Tower - By amending a lease of Water Dept. land, obtained free space on a broadcast tower on Water Dept. property that is used by Police/Fire Communications (at the new ECOC) and Water Dept. security

Boilerplate Specifications - Worked with Department of Public Works to develop "boilerplate" specifications which reduced the time for award of construction contracts and enabled work to begin sooner.

Financing of Police Helicopters - Assisted the City Treasurer in the financing of 2 police helicopters under a Master Lease Purchase Agreement with Banc of America Leasing and Capital LLC.

Bond Issues - Assisted with refinancing of bond issues relating to redevelopment, SERRF and various assessment districts.

Ethics Code - Drafted Code of Ethics for city officials and employees.

Lobbyist Regulations - Drafted Ordinance concerning regulation of persons lobbying city officials.

Redevelopment - Assisted with purchase and development of numerous parcels in the city's redevelopment areas.

Conflict of Interest - Gave presentations and advice to numerous city commissions and task forces regarding compliance with the state and city conflict of interest laws.

Elections - Drafted various ordinances concerning election procedures and gave advise regarding compliance with state and city laws.

Downtown and Magnolia Business Districts - Drafted Resolutions for reformation of the Downtown and Magnolia Improvement Parking and Business Improvement Districts.

Pike Property Employment Agreement - Negotiated agreement with Legal Aid Foundation regarding hiring opportunities for low income Long Beach residents at the Pike at Rainbow Harbor development.

Rancho Los Alamitos - Defended the public's right of access to the Rancho against various claims and theories put forth by the Bixby Hill Community Association. Prevailed at trial on all City related issues.

Cal Compact, Carson - With outside counsel, defended the City against two lawsuits brought by oil companies against several cities for the cost of an environmental cleanup, estimated at between \$26 Million and \$56 Million. Assisted in settling case for \$590,000.00.

Enviropur West Site, Signal Hill - With outside counsel, defended the City against EPA suit to recover additional oversight costs at remediated facility. Settled \$2.9 Million initial demand for \$290,000.00.

Coyote Creek Bridge - Ongoing negotiations with Los Angeles County and ABC School District, toward resolving bridge removal.

Broadway-Golden School - Advised Community Development and Public Works on expedited street closures and vacations, as well as NPDES compliance problems with Long Beach Unified School District.

Motorcycle Parking Zones - Prepared ordinance authorizing City Engineer to create motorcycle parking zones and to prohibit parking of motorcycles in marked parking spaces near motorcycle parking zones.

Lakewood Village Parking - Advised Public Works on implementing strict “no-parking” regulations in response to residents’ concerns.

BMX Bikes in Skate Parks - Prepared ordinance to permit BMX bikes in new skate park on a trial basis.

Villa Park Mobile Estates - Participated in ongoing multi-department committee dealing with substandard mobile home park and potential park closure requirements.

NPDES Issues with Regional Water Quality Control Board - Advised Clean Water Program regarding ongoing requests and directions from Board to expand program at City’s cost.

Airport and Water Department NPDES Compliance - Advised Airport and Water Departments on their obligations under the City’s NPDES permit.

Termino Storm Drain/ Colorado Lagoon - Provided advice to Public Works on litigation brought by Friends of Colorado Lagoon against the County, in which City is named as real party in interest but not served. Assisted County in defending issues of mutual interest.

Adopt-A-Storm Drain - Advised on the implementation of a new program for corporate recognition and public information which will provide supplemental funding for stormwater programs as required by NPDES permit.

Newsracks - Advised Public Works on proposed expansion of pilot areas.

Underground Utility District - Established new District No. 38.

Traffic Streamlining Ordinance - Worked with Public Works staff to implement new process which gives more discretion to Traffic Engineer.

Hazardous Waste Cleanup Cost Recovery - Advised Health Department on limitations on cost recovery for waste cleanups on public and private property.

Housing Authority/Legal Aid - Negotiated with Legal Aid to resolve tenant issues related to Section 8 participants, including the application of changes in state law and the modification of waiting list preference categories.

Public Art Installations - Advised Public Works regarding installation of public art on public right of way.

Environmental Review of City Bid Specifications and Property Transactions - Reviewed major specification packages and certain other agreements for compliance with environmental laws and regulations.

Parkway Occupancy and Maintenance Issues - Advised Public Works in the application of the City's parkway maintenance and street tree policies, including several "feuding neighbor" problems and volunteer situations.

Library - Advised the Library on release of information under federal antiterrorism law.

Queen Mary Lease Amendment - Participated in extensive negotiations for providing rent credits for the lessee, Queen's Seaport Development Inc. (QSDI). Prepared numerous draft Lease amendments suitable for providing additional rent credits for QSDI.

Boeing Pacific Center - Provided legal advice regarding a potential agreement with Boeing to obtain changed zoning for some two hundred acres of its property near the City airport in return for agreeing to develop the property with a particular mix of residential and commercial uses in a phased manner. Prepared an extensive critique of a draft Development Agreement prepared by attorneys for Boeing.

Bolsa Chica Wetlands Pipeline - Provided advice regarding how to deal with a California State Lands Commission mandated movement of a City of Long Beach gas pipeline from a wetlands area to an adjacent area. This included problems involving long expired pipeline permits issued to the City.

The "Dog Zone" - Drafted pilot ordinance for an off-leash dog exercise area on a designated area of the City's beach. Participated in community forums for the discussion of this program.

Crate and Barrel - Provided legal advice regarding money owed to City by Crate and Barrel as a result of that company withdrawing from the City before the explanation of its lease.

Union Bank - Participated in negotiations between Wells Fargo, Union Bank, and the City of Long Beach for the provision of banking services to the City. Revised

the resultant agreement for the provision of banking and payroll service from Union Bank to the City of Long Beach.

Public Records Act Requests - Provided legal advice to the City regarding far reaching and detailed Public Record Act Requests dealing with the City's relationship to the Queen Mary, with developments at the City's Airport, and with the potential Development Agreement between the City and Boeing. Marshaled relevant documents and reviewed them for documents that were legally privileged.

Convention Center - Provided legal advice to the City regarding its legal obligations to the State Lands Commission in running the Convention Center and corresponded with the Commission regarding their questions regarding that property.

ShoreFest - Engaged in extended negotiations with the developers of the Pike (DDR) regarding a potential permit to put on a shore-side festival including military aircraft displays, waterborne military displays, and exhibits by other participants including NASA.

Kite Surfing - Prepared ordinance regarding "kite surfing" off the beaches of the City and permits for the provision of lessons in that sport by private concerns.

Marina Improvements - Reviewed extensive documentation involving loans from the State of California to the City for improvements to the Downtown Long Beach Marina.

City Leases - Drafted numerous leases of City land for uses such as restaurants and other commercial uses and leases by the City of its property for uses as field offices for Council members and City outreach efforts.

Police and Security Services Agreement - Negotiated in unison with the Long Beach Police Department an agreement with Long Beach City College District for police and security services to be provided at both campuses by the Long Beach Police Department.

Police Services - Negotiated in unison with the Long Beach Police Department agreements with Vestar Property Management, Long Beach Public Transportation Company, and the Housing Authority of the County of Los Angeles for supplemental police services.

Crude Oil Marketing Agreement - Negotiated in unison with the Department of Oil Properties a crude oil marketing agreement for the benefit of the Long Beach Unit Townlot owners.

Special Events - Advised office of Special Events on First Amendment issues relating to demonstrations, parades and marches.

Fire Department - Prepared ordinance amending Long Beach Municipal Code Chapter 18.48 relating to fire code revisions and updates.

Affiliation Agreements - Negotiated multiple affiliation agreements with various paramedic training facilities and local hospitals for paramedic internship/training in Long Beach.

Community Development - Negotiated in unison with the Workforce Development Bureau contracts and grant agreements for implementation of the Workforce Investment Act.

Bankruptcies - Handled approximately 150-200 pending bankruptcies including the review of and claim filing as necessary to protect the City's debts, taxes or loans. Opposed alleged violations of the automatic stay, and reviewed and voted on proposed debtor reorganization plans.

Transient Occupancy Tax, Utility Users Tax, and Business License Tax - Prepared several opinions to Financial Management relating to transient occupancy tax, utility users tax, and business license tax as to interpretation and/or application on collections, exemptions, audits, claims, records, hearings, and nonpayment.

State legislation - Prepared legal opinions and/or recommendations on pending state legislation relating to transient occupancy tax, ad valorem assessment of electric plants for property tax, and utility users tax.

Transaction Based Storage and Gas Storage Bidding - Assisted in the creation of a new procedure for transaction based storage and gas storage bidding between Southern California Gas Company and the City.

California Public Utility Commission - Filed comments at the CPUC objection to proposed changes in the manner of Southern California Edison's reporting of electric franchise fees relating to energy sales by Department of Water Resources to the utility.

Telephone Utility User Tax - Assisted Financial Management and Auditor's office with negotiations relating to increasing the collection compliance of telephone utility users tax service providers for wireless telephone services

Tax Audit Issues - Assisted Financial Management and City Auditor's office on several tax audit issues.

Relocation of Gas Pipelines in Wetlands Area - Assisted Energy Department in negotiating agreement for removal and relocation of gas pipelines in wetlands area with Southern California Gas Company.

Antitrust Litigation - Assisted outside counsel on antitrust lawsuit against El Paso and Southern California Gas Co. related to high gas prices during the 2000-2001 energy crisis.

Defend Class Action Lawsuit - Assisted outside counsel in class action lawsuit against City seeking to charge gas customers rates below the cost of gas to the City's utility.

Recover of Underpayment of Gas Franchise Fees - Assisted outside counsel in lawsuit against Southern California Gas Company for recovery of underpayment of gas franchise fees of \$8 million for service to the electric plants.

Collection of City's Transfer Tax from sale of Edison Plants - Successfully litigated collection lawsuit jointly with LA County and Redondo Beach for documentary transfer tax due the City of Long Beach from Southern California Edison and AES for underpayment of the City's transfer tax at the time Edison's electric generation plants were sold in 1998. Currently under appeal to increase the amount of tax due.

FEMA Appeal - Continued negotiating with federal government on City's FEMA appeal of disallowance of approximately \$1.7 million for police and fire department services during the 1992 civil unrest.

457 Deferred Compensation Withdrawal Requests - Advised attorneys and other parties on many cases involving the City's 457 deferred compensation plan and court orders relating to marriage dissolutions.

Transfer of Pension Document - Prepared documents and declarations to allow proper payment of monies due upon death to current and/or retired employees or their spouses or next of kin, and for City Council approval of widow's pensions.

Natural Gas Transportation and Service Agreements - Prepared resolution authorizing City Manager to execute agreements with customers for natural gas transportation and service for two year period on Schedule 7, 8 and 9 customers procuring their own gas.

Long Beach Municipal Cemetery - Reviewed and prepared all documents and declarations to allow proper transfer of cemetery plots of old Long Beach Municipal Cemetery.

Alcohol and Drug Testing - Provided legal advice regarding drug and alcohol testing and random drug testing for certain job classifications and safety sensitive positions in the City.

Thums - Prepared agreement relating to gas transportation and purchases between the City and Thums Long Beach Co.

Assessment District Collection - Aggressive collection of delinquent assessment district liens including substantial litigation of foreclosure lawsuits resulting in sales of defaulted properties and collection of \$712,345.73.

Airlines Agreement - Negotiated and prepared an agreement between the City, Alaska Airlines, American Airlines and JetBlue regarding the allocation of air carrier flight slots at the Long Beach Airport in order to maintain the integrity of the City's existing Airport Noise Compatibility Ordinance.

Temporary Flight Slot Allocation Agreement - Negotiated and prepared a Temporary Flight Slot allocation agreement between the City of Long Beach and American Airlines pending negotiation of permanent slot allocation agreement.

Airport Noise Compatibility Ordinance - Met with the Federal Aviation Administration (FAA) officials both locally and in Washington, D.C. on numerous occasions in order to advocate the City's position relative to the maintenance of the City's existing Airport Noise Compatibility Ordinance.

Records Retention Schedules - Advised Police Department and City Auditor's Office regarding the revision and adoption of the Records Retention Schedule for each respective office.

Self Storage Moratoriums - Drafted Ordinances establishing Interim Prohibition of Uses (moratoriums) regarding the development of self storage facilities in the 6th Council District and City-wide.

Substandard Property Agreements - Drafted and negotiated agreements between the City and various owners of substandard properties in order to facilitate the timely rehabilitation of the structures.

Open Space and Recreational Element of the General Plan - Prepared various Resolutions, Ordinances and Environmental documents in order to facilitate the adoption of the revised Open Space and Recreational Element of the City's General Plan.

PacifiCenter - Provided advice and counsel to the Community Development Department in connection with the preparation of the Environmental Impact Report for the PacifiCenter Development on approximately 260 acres owned by the Boeing Company.

Historical Landmark Ordinances - Prepared Ordinances establishing the Kimpson/Nixon and Crandall/Howard Houses as Historical Landmarks in the City of Long Beach.

Historical Landmark Districts - Prepared and recorded with the County Recorders Office notices establishing eleven (11) Historic Landmark Districts in the City of Long Beach.

Historic Preservation Agreements - Prepared Historic Property Preservation Agreements between the City and various owners of historic homes in order to facilitate the continued care, maintenance and repair of declared historic home sites.

Constitutionality of Prayer at Council Meetings - Prepared written legal opinion and provided advice regarding the constitutionality of prayer invocations utilized at City Council meetings.

Deferred Compensation Emergency Withdrawals - Provided advice and legal opinions to the Department of Financial Management regarding emergency withdrawal requests from employee Deferred Compensation Plans.

HARBOR DIVISION

July 1, 2002 through June 30, 2003
(2.5 Attorneys)

STATISTICS

TOTAL ASSIGNMENTS	1476
Documents prepared (contracts, leases, permits, property purchase agreements, etc.)	333
Board Ordinances	23
Board Resolutions	44
Specifications and bids reviewed	69
Public Records Requests/Subpoenas/Stop Notices	166
Formal written opinions/advice memoranda (excluding numerous informal e-mail advice memoranda)	107

*(These statistics do not include approvals of documents as to form,
insurance review and approvals, verbal/telephonic advice, etc.)*

SIGNIFICANT ACHIEVEMENTS

Engineering Division Contracts - The Harbor Department currently has over \$200 Million budgeted for major capital projects. Most are multi-year projects, requiring numerous separate professional services contracts, construction contracts and amendments. In addition to contract preparation and the review and approval of both specifications and bids received, additional review and advice is given relating to change orders, stop notices, permitting by other

agencies, changed field conditions, etc. Several disputes have recently arisen from construction contracts requiring substantial legal support.

Other Division Contracts - All other divisions (10) of the Department require contracts to be prepared and approved by Harbor Division attorneys, including contracts for materials and equipment acquisitions, professional and technical services, vessel charters, software licenses, etc.

Property Use Agreements - All purchase and sale agreements, preferential assignment agreements (i.e., terminal leases), crane leases, surface use permits, pipeline and utility permits, area assignments, rights of entry and other property agreements (including negotiating drafts) are prepared by Harbor Division attorneys. This year involved negotiation or renegotiation of several major terminal leases as terminals were reconfigured and reassigned.

Ordinances and Resolutions - All land use agreements and tariff amendments must be implemented by ordinances or resolutions which are prepared by Harbor Division attorneys. Additionally, there are more complex resolutions and ordinances prepared in connection with a variety of matters, such as approval of environmental impact reports, salary resolutions, bond issues and other matters.

Insurance - All contracts and property use agreements involve review and approval by Harbor Division attorneys of submitted insurance documents. Additionally, the Department maintains its own program of coverages, including property, vehicles, vessels, etc., which is reviewed and approved by Harbor Division attorneys.

Harbor Development/Coastal Act Permits - The Harbor Board has been designated as the local Coastal Commission authority for all development within the Harbor District. Additionally, the City Charter requires a Harbor Development Permit for any work (public or private) performed within the Harbor District. Harbor Division attorneys advise Harbor staff regarding Coastal Act matters and assist in drafting permits and related documents.

Master Plan/Amendments - Harbor Division attorneys advise the Planning Division regarding the Port Master Plan and assist in the preparation of amendments.

Public Records Act Requests/Subpoenas - The Harbor Department maintains its own extensive records center. Harbor Division attorneys advise the Administration Division regarding release and copying of Harbor records.

Board and Staff Meetings - At least one Harbor Division attorney attends all Board meetings, with others present on an occasional basis as needed in connection with particular matters.

Port Reconfiguration - Container vessels are growing larger and the volume of trade continues to increase, but available land in the port is limited and environmental restrictions have become increasingly stringent. The Harbor Department is reconfiguring existing terminals to meet current and future demands. This redevelopment requires substantial legal support relating to environmental analysis and documentation, design and construction contract preparation and administration, terminal lease drafting and negotiation, and financing.

Alameda Corridor/ACTA JPA - This is a \$2.4 Billion rail corridor under the jurisdiction of a joint powers authority known as the Alameda Corridor Transportation Authority or ACTA. Harbor Division attorneys are primarily responsible for legal representation of the City of Long Beach and the Board in ACTA matters.

Bonds - The Harbor Department finances major projects with revenue bonds. Additionally, the Harbor Department maintains a Commercial Paper program for short-term supplemental financing. Both of these programs generate legal work for Harbor Division attorneys.

Naval Properties - In addition to supervising and assisting in related litigation, Harbor Division attorneys have continued to work on numerous issues regarding reuse of the Naval properties, including development and leasing, environmental remediation and property transfer.

Harbor Litigation - Harbor Division attorneys supervise and coordinate legal services of outside attorneys working on certain Harbor Department matters. There are currently 40 pending cases involving the Harbor Department as plaintiff or defendant.

WORKERS' COMPENSATION DIVISION

**July 1, 2002 through June 30, 2003
(3 Attorneys)**

The Workers' Compensation Division of the City Attorney's Office is responsible for providing medical and indemnity benefits to injured employees covered by the City's Self Insured and Self Administered Workers' Compensation Program. In fiscal year 2003 there were 7,631 employees covered under this program.

City Attorney staff initiates the investigation of cases as well as the provision of benefits. Staff is also responsible for complying with all statutory notice requirements and State reporting requirements. In addition, it coordinates return to work efforts with the departments and also institutes the provision of vocational rehabilitation when an injured worker can no longer return to usual and customary duties. The claims staff monitors the medical treatment and intervenes when it appears that the treatment provided is inappropriate. In addition, the claims staff resolves all cases involving injured workers who receive permanent disability awards but who are not represented by counsel. During this fiscal year the claims staff processed 53 such awards.

From April 28, 2003 through May 27, 2003 the Audit Unit of the State's Division of Workers' Compensation conducted an audit of the City's workers' compensation claims. The purpose of the audit was to make certain that the City's injured workers promptly and accurately receive the compensation to which they are entitled. The State Audit Unit found that the City's workers' compensation staff significantly exceeds the State's performance expectations.

Our office was pleased with the favorable results of the State Audit. However we recognize the need to improve the City's workers' compensation program in order to reduce costs and help alleviate the budget deficit. Therefore our office, in conjunction with the City Manager's Office, proposed an outside study of workers' compensation, risk management and occupational health and co-chaired a committee charged with formulating a Request for Proposal and then choosing a consultant to perform the study. The City Council approved the recommended consultant, Deloitte and Touche, and the study started in August, 2003. The consultant has been asked to identify operational changes that will result in efficiency improvements and potential budget savings.

The numbers below will reveal the need for changes in order to effect savings. During the period 7/1/02 through 6/30/03 the Workers' Compensation Division paid a total of \$18,978,923.00 in workers' compensation benefits. The chart below reports the allocation of these benefits between medical and indemnity payments and compares this last fiscal year to the two prior years. The substantial increase

in costs is only partially explained by the small increase in new claims filed in 2002-2003.

BENEFITS PAID

<u>Year</u>	<u>Medical Payments</u>	<u>Indemnity Payments</u>	<u>Total Benefits</u>
2003	\$9,981,257.00	\$8,997,666.00	\$18,978,923.00
2002	\$8,309,733.00	\$7,957,820.00	\$16,267,533.00
2001	\$7,143,185.00	\$7,444,597.00	\$14,587,782.00

NEW CLAIMS FILED

<u>Year</u>	<u>Number of Claims</u>
2003	1068
2002	1026
2001	971

The most significant reason for the rise in costs is the increase in severe injuries. In this regard the City's experience reflects that of California as a whole: according to CWCI, an organization that monitors the State's workers' compensation costs for the insurance industry, studies of policy year 2002 show a 3% decline in indemnity claim frequency but a 14% increase in the average cost of an indemnity claim. The Institute's statistics indicate that this is largely due to an increase in medical costs.

In an effort to reduce medical costs, medical invoices are reviewed by a bill review service. During this last fiscal year the reviews have resulted in a 48% reduction in medical payments. In other words, the City has only paid 52 % of the charges billed by medical providers in fiscal 2003.

The majority of claims involve legitimate industrial injuries. In those cases benefits are quickly provided. However, there are a certain number of claims that

require more extensive investigation. During the period 7/1/02 through 6/30/03, decisions on 274 of the 1068 claims reported were delayed to allow investigation. Of those delayed cases, 167 claims were denied. Therefore, approximately 16% of the 1068 total claims reported were denied as not being compensable injuries.

The numbers below reveal a slight decrease in litigation in 2003 from the prior year 2002. Of the 184 litigated cases filed in fiscal 2002-2003, 98 were for legal disputes over injuries which occurred during fiscal 2002-2003. The other 86 litigated claims were filed for injuries prior to fiscal 2002-2003.

NEW APPLICATIONS FOR LITIGATION

<u>Year</u>	<u>Number of Applications</u>
2003	184
2002	188
2001	179

Litigated workers' compensation claims are handled by two Deputy City Attorneys and one Principal Deputy City Attorney. Each attorney handles the litigated claims for approximately 100 employees. It should be noted that the majority of employees who are represented by counsel have more than one litigated claim at a time. Therefore, the actual number of cases handled by each attorney is substantially greater than 100 files.

During the period 7/1/02 through 6/30/03, 59 cases were set for trial at the Workers' Compensation Appeals Board. Of these, 13 cases, or 22% were litigated to conclusion.

Employees who file Applications for Adjudication of Workers' Compensation Claims often file other litigation against the City. Litigated workers' compensation claims often accompany Disability Retirement Applications, Civil Rights litigation, Civil Service litigation and actions against third party tortfeasors. For this reason, the Workers' Compensation attorneys often work closely with Department Counsel and Liability attorneys who handle these other files.